IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.359 OF 2006
IN
CRIMINAL APPEAL NO.329 OF 2006

Mr.Subhash Kisan Bangar .. Applicant.
Vs.
The State of Maharashtra .. Respondent.

Mr.Dilip Bodake for the applicant.
Mrs.M.M.Deshmukh A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 21ST JUNE, 2006

P.C.:

. Heard learned counsel for the parties.

2. This is an application for bail in the appeal against the order of conviction under section 376 of the I.P.C. The appeal is admitted. The accused is sentenced to undergo R.I. for seven years and to pay fine of Rs.2,000/-. In short, the allegation against the applicant is that on 18.8.2004 at about 6.00 p.m. when the complainant had taken sheep for grazing in the field known as "Varche Shet" at village Masaiwadi, the accused went there and committed rape on the prosecutrix (P.W.4). The defence of the accused is of total denial. The FIR was lodged after three days i.e. on 21.8.2004 and the prosecutrix was send for medical examination on 24.8.2004. Since the Lady Medical Officer was not available in the hospital at

Mhaswad and Gondavale she was sent to Civil Hospital Satara. It appears that the Investigating Officer got her examined after six days of the incident. The medical certificate (Ex.50) does not indicate the marks of injury on person of the prosecutrix. Moreover, the Medical Officer has not been examined. The C.A. report also does not support the allegation of rape against the accused as discussed by the learned Judge in paragraph 17 of the judgment. It appear that the prosecution examined Shiva Khatal (P.W.6) a child witness, who, in the cross examination, has admitted that he was tutored by his parents to state about the alleged incident. Keeping that in view and considering that the accused, who is a young boy of 20-22 years old, was on bail during trial and that there is no allegation of abuse of liberty, this is a fit case to enlarge him on bail. The applicant be enlarged on bail in the sum of Rs.3,000/- with one surety of the like amount subject to condition that he shall report concerned police station on every alternate Saturday for two years between 10.00 a.m. and 11.00 a.m. and thereafter on the first Saturday of every month at the same time till the disposal of appeal. The application is, accordingly, disposed of.

(D.B.Bhosale, J.)